

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

AZZEDINE BELMADANI,

Plaintiff,

-against-

HECTOR SALAZAR,

Defendant.

1:21-CV-3565 (LTS)

ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

By order dated and entered on August 2, 2021, the Court dismissed this *pro se* action for lack of subject matter jurisdiction. But the Court granted Plaintiff 30 days' leave to file an amended complaint to allege facts showing that the Court has diversity jurisdiction to consider this action.

Nine days later, on August 11, 2021, Plaintiff filed the following documents in this court: (1) a motion for an extension of time to file a notice of appeal under Rule 4(a)(5) of the Federal Rules of Appellate Procedure; (2) a notice of motion; (3) a declaration; and (4) a notice of appeal, a motion for leave to proceed *in forma pauperis* ("IFP") on appeal, and an application to appeal IFP. (ECF 7-10.)¹ For the reasons set forth below, the Court denies Plaintiff's motion for an extension of time to file a notice of appeal as unnecessary, and denies his motion for leave to proceed IFP on appeal and application to appeal IFP as moot.

¹ The notice of appeal, motion for leave to proceed IFP on appeal, and application to appeal IFP were docketed as one document in ECF 10.

DISCUSSION

A. Motion for an extension of time to file a notice of appeal

A litigant has 30 days from the entry date of the order or judgment he wishes to challenge to file a notice of appeal. Fed. R. App. P. 4(a)(1)(A). The order dismissing this action was dated and entered on August 2, 2021. (ECF 6.) Thus, Plaintiff has 30 days from that date, or until September 1, 2021, to file a timely notice of appeal. Plaintiff filed his notice of appeal on August 11, 2021. Accordingly, because Plaintiff's notice of appeal is timely, the Court denies Plaintiff's motion for an extension of time to file a notice of appeal as unnecessary.

B. IFP on appeal

Under 28 U.S.C. § 1915(a)(3), an "appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." In its August 2, 2021 order, the Court certified under Section 1915(a)(3) "that any appeal from [that] order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal." (ECF 6, at 4.) Thus, because the Court has already decided that any appeal from the Court's August 2, 2021 order would not be taken in good faith, the Court denies Plaintiff's motion for leave to proceed IFP on appeal and application to appeal IFP as moot.

CONCLUSION

The Court denies Plaintiff's motion for an extension of time to file a notice of appeal (ECF 7) as unnecessary because Plaintiff's notice of appeal is timely. The Court denies Plaintiff's motion for leave to proceed IFP on appeal and application to appeal IFP (ECF 10) as moot.

The Court directs the Clerk of Court to mail a copy of this order to Plaintiff and note service on the docket.

SO ORDERED.

Dated: August 20, 2021
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge